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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,490	04/15/2004	Bradley W. Johnson	4626-32	8566
23117 7590 02/01/2011 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
HOEL, MATTHEW D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,490

Applicant(s)

JOHNSON, BRADLEY W.

Examiner

Matthew D. Hoel

Art Unit

3714

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/14/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40,42-47,49,51-59 and 82-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40,42-47,49,51-59 and 82-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 40, 42 to 46, 51 to 59, and 82 to 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mothwurf (U.S. patent 6,283,856 B1) in view of Forte, et al. (5,586,766 A).

4. As to Claims 40, 56, and 82: Mothwurf discloses all of the limitations of these claims, but lacks specificity as to a card game another independent wagering game being played at the table. Mothwurf teaches a table having a horizontal top surface (Fig. 1, 5:24-40) configured to enable a player to play a live game of chance having a game outcome, the game of chance allowing the player to place a wager and potentially entitling the player to a prize (wager placed, 5:24-40; winnings, 13:31-45). Mothwurf

has a live dealer position at the top surface (croupier position 20, Fig. 1, 6:6:1-6,25-30). Mothwurf has a wagering scheme (potential winnings based on winning chips, 14:40-65). Mothwurf has at least two individual wagering positions on the top surface (players 22, Fig. 1, 6:24-29). Mothwurf has a first wager input (player stations 34, Fig. 1, 6:1-16). Mothwurf has a vertically disposed game outcome display connected to the top surface adjacent to the dealer position, the game outcome display being adapted to display the game outcome (number display 28, payout display 30, Fig. 1, 5:45-53). Mothwurf has a controller in communication with the game outcome display, the controller being adapted to control at least the game outcome display (computer 64, Fig. 2, 6:1-16, 9:1-15). Regarding the second wagering game, the structure of Mothwurf inherently is capable of allowing the player to play a second wagering table game such as a card game of blackjack or roulette. Nothing about the functionality or steps of the second independent wagering game is tied to the structure of the horizontal table top, the wager inputs, the computer, or vertically disposed game outcome display as cited in these independent claims. Mothwurf is primarily adapted to a first wagering game being roulette (roulette wheel 12, Fig. 1, 5:24-40). Mothwurf, however, has plural positions 22 for plural players around the perimeter of the playing table (Fig. 1). There is also a croupier or dealer position 20 at the playing table. Nothing about the steps of the second wagering game pertain to the structure of the claimed playing table. Mothwurf in Fig. 1 depicts plenty of room for play at the game table. Such a table could *inherently* accommodate a second, parallel, independent wagering game such as a blackjack game or other card game since there is enough room on the table for players and the

dealer to have cards at their respective table positions while playing the roulette game which is the focus of Mothwurf. Mothwurf's roulette game has at least three outcomes as the wheel has pockets 1 to 38, 0, and 00 (Fig. 1, 5:25-40).

5. Forte, however, discloses another game being a table card game of blackjack comprising dealer and player positions about a horizontal playing table (Abst., Fig. 1, 5:31-39). Blackjack has at least three outcomes since a standard deck has 52 cards of four houses and 13 values. Since a table game of blackjack, such as that of Forte, requiring no other structure than a deck of cards and a table, such as the table of Mothwurf, could be easily accommodated by the table structure of Mothwurf, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the second independent wagering game with the second independent payout scheme to the playing table of Mothwurf, since that would be simply an intended use of Mothwurf's disclosed structure. *Intended uses have little if any patentable weight if applied to existing structures.* Such an addition of a second wagering game and second independent payout would have the advantage of providing a second game that the player could play independently of the main roulette game of Mothwurf; the player could play one game, the other, or both which would allow the player twice as many potential winning opportunities and twice the revenue channels for the house. Allowing an existing wagering table to accommodate two games would have the added advantage of simplifying casino layout since additional tables would not be required.

6. As to Claim 42: The second wagering game of blackjack taught by Forte applied to Mothwurf as discussed above would necessarily have an independent outcome than the first wagering game.
7. As to Claim 43: Mothwurf teaches a roulette betting area (player input 34, Fig. 1, 6:10-16) is between the dealer station 20 and the player areas (Fig. 1) where the players would keep their cards on the playing table in the event of a second game being a card game.
8. As to Claims 44 and 51: Mothwurf teaches a roulette wheel mounted above or on the top surface of the playing table (12, Fig. 1, 5:25-40), and so is above the roulette betting areas (player table locations 22, Fig. 1).
9. As to Claim 45: Forte as applied to the independent claims above teaches a game of blackjack (Abst.).
10. As to Claim 46: Mothwurf teaches a game of roulette (5:25-40).
11. As to Claim 52: Mothwurf does not cite the roulette wheel as rotating about a horizontal axis. Mothwurf does display roulette wheel 12 as being mounted in the horizontal plane above the roulette table, rotating about a vertical axis (Fig. 1, 5:25-40). The applicant has not stated that rotating the roulette wheel around a horizontal axis or mounting it in the vertical plane has any particular advantage or serves any particular purpose. Mothwurf, or the applicant's invention, would both performed equally well for their intended modes of operation with such a modification. Such a modification is therefore a prima facie obvious modification which fails to patentably distinguish above Mothwurf.

12. As to Claim 53: Both the roulette game of Mothwurf and the blackjack game of Forte have more than two outcomes as outlined regarding the independent claims above.

13. As to Claims 54 and 86: Mothwurf discusses the player stations 20 being outfitted with displays (6:1-16).

14. As to Claims 55 and 87 to 90: Mothwurf discusses the player stations 20 being outfitted with displays or computerized user interfaces (6:1-16, comprising patron card reader, display, and input buttons). Mothwurf does not cite a second wagering game being keno. Keno, however, is a table-based game requiring only a keno card with numbers 1 to 80 on it. Regarding the second wagering game such as keno, the structure of Mothwurf inherently is capable of allowing the player to play a second wagering table game such as a game such as keno which is played on a paper card. Nothing about the functionality or steps of the second independent wagering game being keno is tied to the structure of the horizontal table top, the wager inputs, the computer, or vertically disposed game outcome display as cited in these independent claims. Mothwurf is primarily adapted to a first wagering game being roulette (roulette wheel 12, Fig. 1, 5:24-40). Mothwurf, however, has plural positions 22 for plural players around the perimeter of the playing table (Fig. 1). There is also a croupier or dealer position 20 at the playing table. Nothing about the steps of the second wagering game pertain to the structure of the claimed playing table. Mothwurf in Fig. 1 depicts plenty of room for play at the game table. Such a table could *inherently* accommodate a second, parallel, independent wagering game such as a keno since there is enough room on the

table for players and the dealer to have cards at their respective table positions while playing the roulette game which is the focus of Mothwurf. Mothwurf's roulette game has at least three outcomes as the wheel has pockets 1 to 38, 0, and 00 (Fig. 1, 5:25-40). Since a table game of keno requiring no other structure than a keno card and a table, such as the table of Mothwurf, could be easily accommodated by the table structure of Mothwurf, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the second independent wagering game such as keno with the second independent payout scheme to the playing table of Mothwurf, since that would be simply an intended use of Mothwurf's disclosed structure. *Intended uses have little if any patentable weight if applied to existing structures.* Such an addition of a second wagering game and second independent payout would have the advantage of providing a second game that the player could play independently of the main roulette game of Mothwurf; the player could play one game, the other, or both which would allow the player twice as many potential winning opportunities and twice the revenue channels for the house. Allowing an existing wagering table to accommodate two games would have the added advantage of simplifying casino layout since additional tables would not be required.

15. As to Claim 57: Forte teaches a card wagering area (Abst., Fig. 1, 5:31-39).
16. As to Claim 58: Mothwurf teaches a roulette wagering area (player locations 22, Fig. 1, 6:24-29; respective player stations 34, Fig. 1, 6:1-16).
17. As to Claim 59: Mothwurf teaches a roulette wheel mounted to the gaming device (roulette wheel 12, Fig. 1, 5:24-40).

18. As to Claim 83: Mothwurf has a vertically disposed game outcome display connected to the top surface adjacent to the dealer position, the game outcome display being adapted to display the game outcome (number display 28, payout display 30, Fig. 1, 5:45-53).

19. As to Claim 84: Mothwurf, Fig. 1, shows the vertical display 26 as being mounted on a pole to one end of the table.

20. As to Claim 85: The vertical display of Mothwurf displays the resulting numbers of the roulette wheel (5:45-53).

21. Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mothwurf and Forte in view of Astaneha (U.S. patent 6,302,395 B1).

22. As to Claim 47: Mothwurf and Forte disclose all of the limitations of this claim, but lack specificity as to the player wagering on both first and second wagering games. Astaneha, however, discloses a combination card/roulette game that allows the player to wager on combinations of roulette wheel colors and card values (8:55-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the combined card/roulette wagering of Astaneha to the combination of Mothwurf and Forte. The combination of Mothwurf and Forte as applied to the independent claims above has independent roulette and card games that can be played independently or simultaneously. The advantage of the combined roulette/card wager would be to provide another winning opportunity for the players and encourage the

players to wager on both games simultaneously, which would provide more revenue for the house.

23. As to Claim 49: Astaneha teaches the roulette and card games being operatively coupled to each other since the player can place a wager based on the outcome of both games as outlined above regarding Claim 47.

Response to Arguments

24. Applicant's arguments filed 10-14-2010 have been fully considered but they are not persuasive. Mothwurf teaches a table having a horizontal top surface (Fig. 1, 5:24-40) configured to enable a player to play a live game of chance having a game outcome, the game of chance allowing the player to place a wager and potentially entitling the player to a prize (wager placed, 5:24-40; winnings, 13:31-45). Mothwurf has a live dealer position at the top surface (croupier position 20, Fig. 1, 6:6:1-6,25-30). Mothwurf has a wagering scheme (potential winnings based on winning chips, 14:40-65). Mothwurf has at least two individual wagering positions on the top surface (players 22, Fig. 1, 6:24-29). Mothwurf has a first wager input (player stations 34, Fig. 1, 6:1-16). Mothwurf has a vertically disposed game outcome display connected to the top surface adjacent to the dealer position, the game outcome display being adapted to display the game outcome (number display 28, payout display 30, Fig. 1, 5:45-53). Mothwurf has a controller in communication with the game outcome display, the controller being adapted to control at least the game outcome display (computer 64, Fig. 2, 6:1-16, 9:1-15). Regarding the second wagering game, the structure of Mothwurf inherently is

capable of allowing the player to play a second wagering table game such as a card game of blackjack or roulette. Nothing about the functionality or steps of the second independent wagering game is tied to the structure of the horizontal table top, the wager inputs, the computer, or vertically disposed game outcome display as cited in these independent claims. Mothwurf is primarily adapted to a first wagering game being roulette (roulette wheel 12, Fig. 1, 5:24-40). Mothwurf, however, has plural positions 22 for plural players around the perimeter of the playing table (Fig. 1). There is also a croupier or dealer position 20 at the playing table. Nothing about the steps of the second wagering game pertain to the structure of the claimed playing table. Mothwurf in Fig. 1 depicts plenty of room for play at the game table. Such a table could *inherently* accommodate a second, parallel, independent wagering game such as a blackjack game or other card game since there is enough room on the table for players and the dealer to have cards at their respective table positions while playing the roulette game which is the focus of Mothwurf. Mothwurf's roulette game has at least three outcomes as the wheel has pockets 1 to 38, 0, and 00 (Fig. 1, 5:25-40). Forte discloses another game being a table card game of blackjack comprising dealer and player positions about a horizontal playing table (Abst., Fig. 1, 5:31-39). Blackjack has at least three outcomes since a standard deck has 52 cards of four houses and 13 values. Since a table game of blackjack, such as that of Forte, requiring no other structure than a deck of cards and a table, such as the table of Mothwurf, could be easily accommodated by the table structure of Mothwurf, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the second independent

wagering game with the second independent payout scheme to the playing table of Mothwurf, since that would be simply an intended use of Mothwurf's disclosed structure. *Intended uses have little if any patentable weight if applied to existing structures.* Such an addition of a second wagering game and second independent payout would provide a second game that the player could play independently of the main roulette game of Mothwurf; the player could play one game, the other, or both which would allow the player twice as many potential winning opportunities and twice the revenue channels for the house. Allowing an existing wagering table to accommodate two games would simplify casino layout since additional tables would not be required. The examiner points the applicant to structure used in Forte to carry out the card game which is equivalent to the structure of Mothwurf used to carry out the roulette game. There are plural player positions 14 around the table and a dealer or croupier position 20 around the card table (Fig. 1, 5:30-58). The dealer console 20 is described in detail at 6:7-28; player console 22 at player position 14 is described in detail at Fig. 4, 6:35-61. Forte discloses a vertically disposed outcome indicator at Fig. 6, 7:35-65. The player and croupier positions, respective player and croupier consoles, and vertically disposed outcome display unit are equivalent in structure and function to those of base reference Mothwurf. There is thus no patentable difference in whether a first game is cards or roulette or whether a second game is roulette or cards, respectively. As the claims cite, the two games are independent and their outcomes do not interact in any way. As the examiner pointed out in the last office action. Mothwurf's table structure is inherently capable of accommodating a card game in addition to the roulette game described, as a

card game only requires a table and a deck of cards. A more modern card game such as Forte's with dealer and player consoles to accept wagers and track game progress are equivalent in structure and function to those of Mothwurf as discussed. The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.

Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on 8:00 A.M. to 4:30 P.M..

28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Lewis can be reached on (571) 272-7673. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. D. H./
Examiner, Art Unit 3714

/David L Lewis/
Supervisory Patent Examiner, Art Unit 3714